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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,707	06/20/2001	Arnoldus Werner Johannes Oomen	NL 000332	4224

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT PAPER NUMBER

2655

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,707

Applicant(s)

OOMEN ET AL.

Examiner

Michael N. Opsasnick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gersho et al (6475245) in view of McAulay et al (5054072).

As per claims 1,6,9, Gersho et al (6475245) teaches an apparatus and method:

“determining frequency.....amplitude information” as sinusoidal based encoders including frequency information (col. 4 lines 16-20, lines 60-64).

“characterized.....parameters” as phase synchronization information into the transition and voiced coder (Fig. 4a, subblocks 30 and 32).

Although Gersho et al discusses transmitting parameters that are used to recalculate the phase information (col. 15 line 50 – col. 16 line 10), the transmitted parameters themselves, although directly used to recalculate the phase, are not explicit phase parameters per se. McAulay et al (5054072), however, teaches the transmission of

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explicit phase parameters (McAulay et al (5054072), Fig. 1, subblock 30 and 44).

Therefore, it would have been obvious to one of ordinary skill in the art of audio encoding/decoding to modify the phase calculation portion of Gersho et al (6475245) with the phase information calculation and transmission as taught by McAulay et al (5054072) because that particular phase calculation technique could accurately capture the random noise-like quality deviation present during unvoiced speech (McAulay et al (5054072), col. 8 lines 66-68),

As per claim 2, Gersho et al (6475245) teaches:

“phase jitter.....track” as initialized phase information (col. 15 lines 34-37; and tracked via equation 12).

As per claim 3, Gersho et al (6475245) teaches:

“phase jitter.....frequencies” as generating phase information by calculating a difference between the transition frame and test frame (col. 15 lines 33-40).

As per claim 4, Gersho et al (6475245) teaches:

“determining.....said difference” as deriving the lag via a correlation calculation between current phase and initial phase (col. 15 lines 35-59).

As per claims 5,7, Gersho et al (6475245) teaches:

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“receiving....component” as receiving the sinusoidal information (fig. 5, subblocks 104,106, and 108).

“restoring....parameters” as LP synthesis reconstructed speech (fig. 5, subblock 120).

“characterized in that....jitter parameter” as receiving the phase sync parameter (Fig. 5, subblock 1222 + col. 16 lines 45-65).

As per claims 8,11, Gersho et al (6475245) teaches a audio coder as speech compression and transmission (so that the speech can be re-generated or ‘re-played’ at the decoder end -- col. 3 lines 50-67).

As per claim 10, Gersho et al (6475245) teaches storing the signal (col. 3 lines 60-61).

Response to Arguments

3. Applicant's arguments with respect to the claims filed 8/29/05 have been fully considered but are found to be not persuasive. As per applicant's comments regarding the differential between the 2 previous office actions, examiner notes that the introduction of the McAulay reference is to address the appropriate claim limitations pertaining to phase parameters. (Examiner does not understand what applicant is referring to in the comment with respect to a typo). Examiner notes that the version of the claimed phase jitter parameter (that applicant is arguing) is further defined in the specification as a preferred embodiment; examiner reminds

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applicant that the examiner reviews the claim scope with the broadest reasonable interpretation. To define the phrase “phase jitter parameter” to include the preferred definition of such is not allowed [limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).]. Examiner argues that the currently claimed phase jitter parameter can be read upon by McAulay’s transmitted residual phase parameters. The Gersho reference is introduced as to being most applicable to applicant’s disclosure, the McAulay reference is introduced to teach the transmission of phase parameters, and that the motivation to combine the two is to take advantage of noise deviations that occur during transmission, mimicking the characteristics of unvoiced speech parameters (as noted by McAulay, col. 8 lines 66-68).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



W. R. YOUNG
PRIMARY EXAMINER

mno
11/12/05